

The Gazette of India

EXTRAORDINARY

PART II—Section 2

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LOK SABHA

The following Bill was introduced in Lok Sabha on the 15th February, 1960:—

BILL No. 4 OF 1960

A Bill further to amend the Plantations Labour Act, 1951.

Be it enacted by Parliament in the Eleventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Plantations Labour (Amendment) Act, 1960.

Short title
and com-
mencement.

5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

69 of 1951.

2. In section 1 of the Plantations Labour Act, 1951 (hereinafter referred to as the principal Act), for sub-section (4), the following sub-sections shall be substituted, namely:—

Amend-
ment of sec-
tion 1.

10 “(4) It applies to the following plantations, that is to say,—

(a) to any land used or intended to be used for growing tea, coffee, rubber or cinchona which admeasures 10.117 hectares or more and in which thirty or more persons are employed or were employed on any day of the preceding twelve months;

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(b) to any land used or intended to be used for growing any other plant, which admeasures 10.117 hectares or more and in which thirty or more persons are employed or were employed on any day of the preceding twelve months, if, after obtaining the approval of the Central Government, the State Government, by notification in the Official Gazette, so directs.

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(5) The State Government may, by notification in the Official Gazette, declare that all or any of the provisions of this

Act shall apply also to any land used or intended to be used for growing any plant referred to in clause (a) or clause (b) of sub-section (4), notwithstanding that—

(a) it admeasures less than 10.117 hectares, or

(b) the number of persons employed therein is less than thirty:

Provided that no such declaration shall be made in respect of such land which admeasured less than 10.117 hectares or in which less than thirty persons were employed, immediately before the commencement of this Act.”

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Amendment
of section 2.

3. In section 2 of the principal Act,—

(i) after clause (e), the following clause shall be inserted, namely:—

‘(ee) “family”, when used in relation to a worker, means—

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(i) his or her spouse, and

(ii) the legitimate and adopted children of the worker dependent upon him or her, who have not completed their eighteenth year;

and includes, where the worker is a male, his parents dependent upon him;’;

(ii) for clause (f), the following clause shall be substituted, namely:—

‘(f) “plantation” means any plantation to which this Act, whether wholly or in part, applies and includes offices, hospitals, dispensaries, schools, and any other premises used for any purpose connected with such plantation, but does not include any factory on the premises to which the provisions of the Factories Act, 1948, apply;’;

63 of 1948.

(iii) for clause (h), the following clause shall be substituted, namely:—

‘(h) “qualified medical practitioner” means a person holding a qualification granted by an authority specified or notified under section 3 of the Indian Medical Degrees Act, 1916, or specified in the Schedules to the Indian Medical Council Act, 1956, and includes any person having a certificate granted under any Provincial or State Medical Council Act;’;

35 7 of 1916.
102 of 1956.

(iv) for clause (k), the following clause shall be substituted, namely:—

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‘(k) “worker” means a person employed in a plantation for hire or reward, whether directly or through any

agency, to do any work, skilled, unskilled, manual or clerical, but does not include—

(i) a medical officer employed in the plantation;

5 (ii) any person employed in the plantation (including any member of the medical staff) whose monthly wages exceed rupees three hundred;

(iii) any person employed in the plantation primarily in a managerial capacity, notwithstanding that his monthly wages do not exceed rupees three hundred;
10 or

(iv) any person temporarily employed in the plantation in any work relating to the construction, development or maintenance of buildings, roads, bridges, drains or canals;.

15 4. In section 10 of the principal Act, in sub-section (1), after the word "workers", the words "and their families" shall be inserted. Amendment of section 10.

5. In section 16 of the principal Act, in clause (e), the words "the definition of what constitutes the family of a worker for the purposes of section 15," shall be omitted. Amendment of section 16.

20 6. In section 30 of the principal Act,— Amendment of section 30.
(i) in sub-section (1), after the proviso the following *Explanation* shall be inserted, namely:—

"*Explanation.*—For the purposes of calculating leave under this sub-section,—

25 (a) any day on which no work or less than half a day's work is performed shall not be counted; and

(b) any day on which half or more than half a day's work is performed shall be counted as one day.";

(ii) after sub-section (3), the following sub-section shall be inserted, namely:—
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35 "(4) If the employment of a worker who is entitled to leave under this section is terminated by the employer before he has taken the entire leave to which he is entitled, the employer shall pay him the amount payable under section 31 in respect of the leave not taken, and such payment shall be made before the expiry of the second working day after such termination."

Amendment
of section 31.

7. In section 31 of the principal Act, for sub-section (1), the following sub-sections shall be substituted, namely:—

“(1) For the leave allowed to a worker under section 30, he shall be paid,—

(a) if employed wholly on a time-rate basis, at the rate of minimum daily wage fixed under any law or under the terms of any award, agreement or contract of service, and 5

(b) in other cases, including cases where he is, during the preceding twelve calendar months, paid partly on a time-rate basis and partly on a piece-rate basis, at the rate of the average daily wage calculated over the preceding twelve calendar months. 10

Explanation.—For the purposes of clause (b) of sub-section (1), the average daily wage shall be computed on the basis of his total full-time earnings during the preceding twelve calendar months, exclusive of any over-time earnings or bonus, if any, but inclusive of dearness allowance. 15

(1A) In addition to the wages for the leave period at the rates specified in sub-section (1), a worker shall also be paid the cash value of food and other concessions, if any, allowed to him by the employer in addition to his daily wages unless these concessions are continued during the leave period.”. 20

Amendment
of section 42.

8. In section 42 of the principal Act, after the words “such exemption”, the words and figures “other than an exemption from section 19” shall be inserted.

STATEMENT OF OBJECTS AND REASONS

The Plantations Labour Act, 1951, which provides for the welfare of labour and regulates the conditions of work in plantations has been in operation since the 1st April, 1954. The Act is applicable to gardens admeasuring twenty-five acres or more and whereon thirty or more persons are employed. Some employers are fragmenting their plantations into small units with a view to evading their liabilities under the Act. The amendments mentioned in the Bill are proposed to check fragmentation of plantations and to ensure more effective working of the Act.

2. The reasons for the amendments are, wherever necessary, given in the notes on clauses attached to the Bill.

NEW DELHI;

G. L. NANDA.

The 9th December, 1959.

Notes on clauses

Clause 2.— The revised sub-section (4) of section 1 combines the existing provisions of this sub-section and those of clause (f) of section 2. The amendment is of a drafting nature.

Sub-section (5) is being added in section 1 to empower the State Governments to apply all or any of the provisions of the Act to any plantations less than 10.117 hectares in area or employing less than 30 workers, subject to the condition that such of these plantations as were in existence before the commencement of the Act will not be brought within its scope. This sub-section thus seeks to check the fragmentation of plantations by employers into small units and to prevent the establishment of such small units in future with a view to by-passing the Act.

Clause 3.—(i) It is considered necessary to define the term 'family' for the purposes of the Act. A new clause (ee) is, therefore, being added in section 2.

(ii) The present definition of the term "plantation" in section 2(f) is restricted to land where tea, coffee, etc., are grown and does not cover other places such as offices, hospitals, dispensaries and schools where persons are employed in work connected with the plantations in one form or another. The modified section 2(f) read with the amendments proposed in clause 2 will ensure that the benefits under the Act will be available to all workers except those employed in factories which come within the purview of the Factories Act, 1948.

(iii) Clause (k) of section 2 is being amended to clarify that members of the medical staff (other than medical officers) whose wages are less than Rs. 300 p.m. are covered by the Act, while persons who are temporarily employed in any work relating to the construction and maintenance of buildings, roads, etc., are not.

Clause 4.—Employers are already providing medical facilities for families of workers. The proposed amendment merely gives this a statutory effect.

Clause 6.—(i) It is not clear whether the expression 'work performed' appearing in sub-section (1) of section 30 includes days

on which less than the normal day's work is performed or on which only attendance is put in. The proposed "*Explanation*" clarifies the position in this regard.

(ii) The existing section 30 does not provide for grant of leave due to a worker or wages in lieu of such leave in case his services are terminated by the employer. The new sub-section (4) makes necessary provision on this account.

Clause 7.—The period over which the average daily wage should be calculated has not been specified in section 31(1). This has been causing difficulty in the calculation of wages for the leave period. The proposed amendment seeks to remove this difficulty.

Clause 8.—Under section 42, previous approval of the Central Government is necessary before State Governments can exempt employers from any provision of the Act. Section 19 restricts weekly hours of work to 54 for adults. Employers are finding it difficult to observe a 54-hour week in a rush period when tea leaves have to be plucked while in heavy flush and coffee berries have to be picked before torrential rains can bring down the whole of the ripening crop. The restriction of weekly hours of work to 54 in such cases results in loss of crop to estates and loss of earnings to workers paid on piece rates. The proposed amendment empowers State Governments to exempt employers from section 19 in suitable cases without prior reference to the Central Government, which takes time.

M. N. KAUL,
Secretary.

CORRIGENDA

In the Gazette of India Extraordinary, Part II—Section 2—

1. No. 49, dated the 19th November, 1959:—

- (i) Page 1177, marginal heading to clause 30, for "Power o"
read "Power of";
- (ii) Page 1185, marginal heading to clause 51, for "Disolution"
read "Dissolution";
- (iii) Page 1185, marginal heading to clause 52, for "Powers"
read "Power".

2. No. 49A, dated the 19th November, 1959:—

- (i) Page 1191/11, line 8 from the bottom, for “He is” read “It is”;
- (ii) Page 1191/12, line 6 from the top, for “Exhor-” read “Exor-”.

3. No. 52, dated the 25th November, 1959:—

- (i) Page 1201, in the foot-note, line 1, for “article 7” read “article 117” and line 2, for “co sideratio” read “consideration”;
- (ii) Page 1208, line 13 from the top, for “Delhi Act of 1954.” read “Delhi Act 8 of 1954.” as marginal reference.

4. No. 56, dated the 2nd December, 1959:—

- (i) Page 1278, clause 61, for “yment of revenue.” read “Payment of land revenue.” as marginal heading;
- (ii) Page 1279, clause 69, for “Prohibit to bid at auction.” read “Prohibition to bid at auction.” as marginal heading;
- (iii) Page 1290, line 26 from the top, for “basic hold” read “basic holding; and”;
- (iv) Page 1303, line 17 from the top, for “cutcherdy” read “cutchery”;
- (v) Page 1304, marginal heading to clause 139, for “certain ands.” read “certain lands.”;
- (vi) Page 1305, line 11 from the bottom, after “section 139,” read “or”;
- (vii) Page 1309, marginal heading to clause 149, for “intermediary” read “intermediary”;
- (viii) Page 1315, line 14 from the top, for “4 of 1860” read “45 of 1860” as marginal reference;
- (ix) Page 1315, read “Penalties.” as marginal heading to clause 162.

5. No. 59, dated the 9th December, 1959:—

After page 1418 read the successive pages in the following order,—

1420, 1419, 1422, 1421, 1423